

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EUGENE W. CRIST and DEPARTMENT OF THE ARMY,
ARMY CORPS OF ENGINEERS, Huntington, WV

*Docket No. 02-720; Submitted on the Record;
Issued January 29, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant met his burden of proof in establishing that his right shoulder condition was causally related to a June 4, 2001 employment incident.

On June 4, 2001 appellant, then a 46-year-old lock and dam operator, was changing a tire on a mower, holding the tire while a coworker pulled out the inner tube. Appellant stated that he heard his shoulder pop. He filed a claim for a pulled muscle in the right shoulder and shoulder blade.

In a June 4, 2001 form report, a physician's assistant indicated that appellant had a prior history of nerve damage to the shoulder. He noted that the shoulder was tender to palpation. He reported that the diagnosis was acute exacerbation of chronic right shoulder pain. He marked a box on the form to indicate that appellant's right shoulder condition was related to the June 4, 2001 employment incident. Appellant was restricted to no use of the right arm.

In an October 23, 2001 letter, the employing establishment indicated that appellant, because of the permanent restrictions on his working ability, could no longer remain in a work status with the employing establishment. It acknowledged appellant's intention to file for disability retirement and informed him of his right to seek compensation.

In a November 30, 2001 letter, the Office of Workers' Compensation Programs informed appellant of the need to submit medical evidence in support of his claim. The Office gave appellant 30 days to submit the necessary evidence. No response was forthcoming.

In a December 31, 2001 decision, the Office denied appellant's claim for compensation. The Office found that the incident appellant described had occurred but further found that the evidence did not establish that a condition had been diagnosed in connection with the claim.

The Board finds that appellant has not met his burden of proof in establishing that his right shoulder condition was causally related to the June 4, 2001 employment incident.

A person who claims benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his claim. Appellant has the burden of establishing by reliable, probative and substantial evidence that his medical condition was causally related to a specific employment incident or to specific conditions of employment.² As part of such burden of proof, rationalized medical opinion evidence showing causal relation must be submitted.³ The mere fact that a condition manifests itself or worsens during a period of employment does not raise an inference of causal relationship between the condition and the employment.⁴ Such a relationship must be shown by rationalized medical evidence of causal relation based upon a specific and accurate history of employment incidents or conditions which are alleged to have caused or exacerbated a disability.⁵

Appellant claimed that he had a right shoulder injury due to the June 4, 2001 incident. The only evidence he submitted in support of this claim was the form report from a physician's assistant. This report is not medical evidence because a physician's assistant is not a physician as defined by the Act.⁶ Appellant did not submit any medical report from a physician who gave a history of appellant's employment injury, a diagnosis of his condition and a reasoned, detailed explanation on how the employment injury caused the diagnosed condition and resulting disability.⁷ Appellant, therefore, has not met his burden of proof.

¹ 5 U.S.C. §§ 8101-8193.

² *Margaret A. Donnelly*, 15 ECAB 40, 43 (1963).

³ *Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

⁴ *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

⁵ *Edgar L. Colley*, 34 ECAB 1691, 1696 (1983).

⁶ 5 U.S.C. § 8101(2). See *Lyle E. Dayberry*, 49 ECAB 369 (1998).

⁷ The Board notes that the Office received medical reports after the December 31, 2001 decision. The scope of review of the Board is limited to the evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). The Board, therefore, cannot review these medical reports.

The decision of the Office of Workers' Compensation Programs, dated December 31, 2001, is hereby affirmed.

Dated, Washington, DC
January 29, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member